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9
10 **UNITED STATES DISTRICT COURT**
11 **CENTRAL DISTRICT OF CALIFORNIA**

12 LINDA MATLOW, an individual,

13 Plaintiff,

14 v.

15
16 VALNET MEDIA USA, INC., a Delaware
17 corporation, individually and doing
18 business as "ScreenRant.com"; and DOES
19 1-10,

20 Defendants.
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Case No.:

PLAINTIFF'S COMPLAINT FOR:

1. COPYRIGHT INFRINGEMENT
(17 U.S.C. § 101, *et. seq.*);
2. VICARIOUS AND/OR
CONTRIBUTORY
COPYRIGHT
INFRINGEMENT; AND
3. VIOLATION OF THE DIGITAL
MILLENNIUM COPYRIGHT
ACT (17 U.S.C. §1202)

Jury Trial Demanded

1 Plaintiff, Linda Matlow (“Matlow”), by and through her undersigned
2 attorneys, hereby prays to this honorable Court for relief based on the following:

3 **INTRODUCTION**

4 1. Matlow is a renowned professional celebrity and music photographer
5 who has taken award-winning photographs of famous figures such as Paul
6 McCartney, Frank Zappa, Bob Dylan, and Beyonce. Matlow has been active since
7 1977 and has published thousands of original photographs in widely circulated
8 publications such as magazines, books, CD covers, and TV shows and worked for
9 clients such as Disney, HBO, and Sony Pictures. Matlow is additionally the owner
10 and proprietor of the photo archive Pix International, found at www.pixintl.com,
11 which specializes in covering major entertainment, cultural, and news events and
12 including Matlow’s original photography.

13 2. Matlow brings this claim to seek redress for the unauthorized and
14 unlawful publishing and exploitation of her original photography. Defendants
15 Valnet Media USA, Inc. doing business as ScreenRant.com (collectively
16 “Valnet”), unlawfully published and displayed Matlow’s original photography
17 online through prominent display in an article on the website www.screenrant.com
18 owned and operated by Valnet. Matlow at no time sought to associate her work
19 with Defendant or any of their affiliates.

20 3. This unauthorized usage constituted copyright infringement, amongst
21 other things, as set forth below.

22 **JURISDICTION AND VENUE**

23 4. This action arises under the Copyright Act of 1976, Title 17 U.S.C., §§
24 101, *et seq*, and Cal. Civ. Code 3344(a).

25 5. This Court has federal question jurisdiction under 28 U.S.C. § 1331 and
26 1338 (a) and (b).

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1 6. Venue in this judicial district is proper under 28 U.S.C. § 1391(c) and
2 1400(a) in that this is the judicial district in which a substantial part of the acts and
3 omissions giving rise to the claims occurred.

4 **PARTIES**

5 7. Matlow is an individual residing in Chicago, Illinois.

6 8. Matlow is informed and believes and thereon alleges that Valnet is a
7 Delaware corporation which does business as Screenrant.com (“ScreenRant”) and
8 is registered to do business in the State of California and does conduct business in
9 and with the State of California.

10 9. Matlow is informed and believes and thereon alleges that Defendant
11 Valnet is a Delaware Corporation registered to do business in the State of
12 California and does conduct business in the State of California.

13 10. Defendants DOES 1 through 10, inclusive (collectively with Valnet
14 and ScreenRant, “Defendants”), are other parties not yet identified who have
15 infringed Matlow’s copyrights, have contributed to the infringement of Matlow’s
16 copyrights, or have engaged in one or more of the wrongful practices alleged
17 herein. The true names, whether corporate, individual or otherwise, of Defendants
18 1 through 10, inclusive, are presently unknown to Matlow, which therefore sue
19 said Defendants by such fictitious names, and will seek leave to amend this
20 Complaint to show their true names and capacities when same have been
21 ascertained.

22 11. Matlow is informed and believes and thereon alleges that at all times
23 relevant hereto each of the Defendants was the agent, affiliate, officer, director,
24 manager, principal, alter-ego, and/or employee of the remaining Defendants and
25 was at all times acting within the scope of such agency, affiliation, alter-ego
26 relationship and/or employment; and actively participated in or subsequently
27 ratified and adopted, or both, each and all of the acts or conduct alleged, with full
28 knowledge of all the facts and circumstances, including, but not limited to, full

1 knowledge of each and every violation of Matlow's rights and the damages to
2 Matlow proximately caused thereby.

3 **CLAIMS RELATED TO SUBJECT PHOTOGRAPH**

4 12. Matlow created and owns all rights in the original photograph of
5 celebrity Macaulay Culkin and his family depicted in **Exhibit A** attached hereto
6 (the "Subject Photograph").

7 13. Matlow complied in all respects with the Copyright Act, 17 U.S.C. §
8 101, *et. seq.*, and is the sole owner of the exclusive rights, title, interests, and
9 privileges in and to the Subject Photograph, which Matlow has registered with the
10 United States Copyright Office.

11 14. Prior to the acts complained of herein, Matlow widely publicly
12 displayed and disseminated the Subject Photograph.

13 15. Defendants, and each of them, have willfully copied, reproduced, and
14 distributed the Subject Photograph for financial benefit by, without limitation,
15 reproducing the Subject Photograph online for commercial benefit, including
16 without limitation at the website Screenrant.com, which is owned and operated by
17 Valnet, in articles titled "19 Wild Secrets Behind The Culkin Family." True and
18 correct copies and screen captures of Defendants' unauthorized uses are depicted
19 in **Exhibit B** attached hereto ("Infringing Use"). These copies and screen captures
20 represent non-inclusive exemplars of the Infringing Use.

21 16. A comparison of the Subject Photograph with the corresponding
22 images of the Infringing Use reveals that the elements, composition, colors,
23 arrangement, subject, lighting, angle, and overall appearance of the images are
24 identical or at least substantially similar.

25 17. Upon information and belief, Matlow alleges that Defendants, and
26 each of them, had access to the Subject Photograph, including through Matlow's
27 photo archive Pix International, Matlow's numerous online profiles and features,
28 online publications and press featuring Matlow's work, Matlow's social media

1 accounts, and/or through viewing the Subject Photograph on third-party websites
2 (e.g., Tumblr, Pinterest, internet search engines, etc.)

3 18. Matlow has not in any way authorized Defendants, or any of them, to
4 copy, reproduce, duplicate, disseminate, distribute, or create derivative works of
5 the Subject Photograph.

6 19. Matlow did not know or have reason to know of Defendants'
7 infringing conduct prior to three years before the filing of this complaint.

8 20. On July 18, 2022, Matlow, through her undersigned attorneys, sent
9 Valnet a demand to cease and desist all infringing uses of Matlow's copyrighted
10 work. Valnet has failed to meaningfully respond, necessitating this action.

11 **FIRST CLAIM FOR RELIEF**

12 (For Copyright Infringement – Against all Defendants, and Each)

13 21. Matlow repeats, re-alleges, and incorporates herein by reference as
14 though fully set forth, the allegations contained in the preceding paragraphs of this
15 Complaint.

16 22. Upon information and belief, Matlow alleges that Defendants, and
17 each of them, accessed the Subject Photograph by, without limitation, viewing the
18 Subject Photograph as it was publicly displayed. Access is additionally evidenced
19 by Subject Photograph's exact reproduction in the Infringing Use.

20 23. Upon information and belief, Matlow alleges that Defendants, and
21 each of them, copied, reproduced, displayed, and distributed the Subject
22 Photograph as seen, without limitation, in the screen captures attached hereto as
23 **Exhibit B.**

24 24. Upon information and belief, Matlow alleges that Defendants, and
25 each of them, infringed Matlow's copyrights by creating infringing derivative
26 works from the Subject Photograph and publishing same to the public.

27 25. Due to Defendants', and each of their, acts of infringement, Matlow has
28 suffered actual, general, and special damages in an amount to be established at trial.

1 26. Due to Defendants' acts of copyright infringement as alleged herein,
2 Defendants, and each of them, have obtained direct and indirect profits they would
3 not otherwise have realized but for their infringement of Matlow's rights in the
4 Subject Photograph. As such, Matlow is entitled to disgorgement of Defendants'
5 profits directly and indirectly attributable to Defendants' infringement of her rights
6 in the Subject Photograph in an amount to be established at trial.

7 27. Matlow registered the Subject Photograph with the U.S. Copyright
8 Office before the commission of the infringement at issue and on that basis seeks
9 statutory damages in an amount up to \$150,000.00 per photograph per the
10 Copyright Act.

11 28. Matlow is informed and believes and thereon alleges that Defendants,
12 and each of their, conduct as alleged herein was willful, reckless, and/or with
13 knowledge, subjecting Defendants, and each of them, to enhanced statutory
14 damages, claims for costs and attorneys' fees, and/or a preclusion from deducting
15 certain costs when calculating disgorgeable profits.

16 **SECOND CLAIM FOR RELIEF**

17 (For Vicarious and/or Contributory Copyright Infringement – Against all
18 Defendants, and Each)

19 29. Matlow repeats, re-alleges, and incorporates herein by reference as
20 though fully set forth, the allegations contained in the preceding paragraphs of this
21 Complaint.

22 30. Upon information and belief, Matlow alleges that Defendants
23 knowingly induced, participated in, aided and abetted in and profited from the illegal
24 reproduction and distribution of the Subject Photograph as alleged hereinabove. Such
25 conduct included, without limitation, publishing copies obtained from third parties
26 that Defendant(s) knew, or should have known, were not authorized to be published
27 by Defendant(s); publishing the Infringing Use on affiliate, third-party, and social
28 media sites; and distributing the Infringing Use to third-parties for further publication.

1 31. Matlow is informed and believes and thereon alleges that Defendants,
2 and each of them, are vicariously liable for the infringement alleged herein because
3 they had the right and ability to supervise the infringing conduct and because they
4 had a direct financial interest in the infringing conduct. Specifically, each
5 Defendant had the ability to oversee the development, publication, and distribution
6 of the infringing imagery at issue. And, Defendants, and each of them, realized
7 profits through their respective obtainment, marketing and distribution of the
8 Infringing Use.

9 32. By reason of Defendants', and each of their, acts of contributory and
10 vicarious infringement as alleged above, Matlow has suffered and will continue to
11 suffer substantial damages to her business in an amount to be established at trial, as
12 well as additional actual, general, and special damages in an amount to be
13 established at trial.

14 33. Matlow registered the Subject Photograph with the U.S. Copyright
15 Office before the commission of the infringement at issue and on that basis seeks
16 statutory damages in an amount up to \$150,000.00 per photograph per the
17 Copyright Act.

18 34. Due to Defendants' acts of copyright infringement as alleged herein,
19 Defendants, and each of them, have obtained direct and indirect profits they would
20 not otherwise have realized but for their infringement of Matlow's rights in the
21 Subject Photograph. As such, Matlow is entitled to disgorgement of Defendants'
22 profits directly and indirectly attributable to Defendants' infringement of her rights
23 in the Subject Photograph, in an amount to be established at trial.

24 35. Matlow is informed and believes and thereon alleges that Defendants,
25 and each of their, conduct as alleged herein was willful, reckless, and/or with
26 knowledge, subjecting Defendants, and each of them, to enhanced statutory
27 damages, claims for costs and attorneys' fees, and/or a preclusion from deducting
28 certain costs when calculating disgorgeable profits.

THIRD CLAIM FOR RELIEF

(For Violations of the 17 U.S.C. §1202 – Against all Defendants, and Each)

36. Matlow repeats, re-alleges, and incorporates herein by reference as though fully set forth, the allegations contained in the preceding paragraphs.

37. The Subject Photograph were routinely published with attribution, credit, and other copyright management information identifying Matlow as the author.

38. Upon information and belief, Matlow alleges that Defendants, and each of them, removed Matlow’s copyright management information, as described above, from the Subject Photograph, and/or added false copyright management information to the Subject Photograph, attributing it to another artist and/or source.

39. Upon information and belief, Matlow alleges that Defendants, and each of them, distributed and published the Subject Photograph on website(s), including but not limited those sites reflected in **Exhibit B** hereto bearing its own name, and removing Matlow’s attribution information, including without limitation her name and/or metadata.

40. The aforementioned facts constitute “copyright management information” as that phrase is defined in 17 U.S.C. §1202(c) and is false.

41. When Defendants distributed and published the Subject Photograph, they knowingly provided and/or distributed false copyright management information in violation of 17 U.S.C. §1202(a). As a result of the foregoing, Plaintiff has been damaged and may recover those damages as well as Defendants’ profits, and/or statutory damages, and attorneys’ fees under 17 U.S.C. §1203.

PRAYER FOR RELIEF

Wherefore, Plaintiff prays for judgment as follows against all Defendants and with respect to each claim for relief:

- a. That Defendants, their affiliates, agents, and employees be enjoined from infringing Plaintiff’s copyrights in and to the Subject Photograph.

- 1 b. That Plaintiff be awarded all profits of Defendants, and each, plus all losses
 2 of Plaintiff, plus any other monetary advantage gained by the Defendants
 3 through their infringement, the exact sum to be proven at the time of trial,
 4 or, if elected before final judgment, statutory damages to the extent they
 5 are available under the Copyright Act, 17 U.S.C. §§ 504, 1203 *et seq.*;
 6 c. That Plaintiff be awarded its costs and attorneys' fees to the extent they are
 7 available under the Copyright Act U.S.C. §§ 505, 1203, *et seq.*
 8 d. That a trust be entered over all Infringing Uses, and all profits realized
 9 through the sales and distribution of said work;
 10 e. That Defendants, and each of them, be enjoined from any further use of
 11 the photography at issue and/or the distribution of any production
 12 incorporating same.
 13 f. That Plaintiff be awarded pre-judgment interest as allowed by law;
 14 g. That Plaintiff be awarded the costs of this action; and
 15 h. That Plaintiff be awarded such further legal and equitable relief as the
 16 Court deems proper.

17
 18 Plaintiff demands a jury trial on all issues so triable pursuant to Fed. R. Civ.
 19 P. 38 and the 7th Amendment to the United States Constitution.

20
 21
 22 Dated: March 21, 2023

Respectfully submitted,

By: /s/ Scott Alan Burroughs
 Scott Alan Burroughs, Esq.
 Trevor W. Barrett, Esq.
 Frank R. Trechsel, Esq.
 DONIGER / BURROUGHS
 Attorneys for Plaintiff